

**STATE MINING AND GEOLOGY BOARD**

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

PHONE: 916 / 322-1082 • FAX: 916 / 445-0738 • TDD: 916 / 324-2555 • INTERNET: conservation.ca.gov/smgb**ERIN GARNER, CHAIR**
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May 8, 2009

FURTHER NOTICE OF PENDING DETERMINATION**State Mining and Geology Board's
Notice of Vested Rights Determination
Western Aggregates LLC Surface Mining Operation
Yuba County, California**

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to hold a public hearing in order to consider whether the Western Aggregates, LLC, surface mining operation, located in Yuba County, has vested rights in accordance with the Surface Mining and Reclamation Act of 1975 (SMARA), pursuant to Public Resources Code Division 2, Chapter 9, Article 5, Section 2776.

PENDING ADMINISTRATIVE ACTION

In a January 2007 ruling, the California Court of Appeal, Third Appellate District, held that a proper notice and hearing was required for vested rights determinations, and directed that when the SMGB is acting as the SMARA lead agency, the SMGB at the request of the operator, has the responsibility to conduct a public hearing and make a vested rights determination (*Calvert v. County of Yuba*, (2007) 145 Cal. App. 4th 613). Western Aggregates, LLC. submitted a request for determination, and the administrative record, to the SMGB on November 5, 2008. The Chairman of the SMGB determined that the request was within the SMGB's jurisdiction, and a Notice of Pending Vested Rights Determination was mailed on January 6, 2009, and amended on January 12, 2009.

The SMGB administers certain lead agency responsibilities and obligations pursuant to SMARA (Public Resources Code Section 2710 et seq.) for Yuba County, and will be conducting a vested rights determination (CCR Section 3950 et seq.) for the surface mining operation known as Western Aggregates, LLC. (California Mine Identification No. 91-58-0001), located in Yuba County.

CLAIMANT CONTACT

The Western Aggregates, LLC. claimant's contact information and surface mining operation business address are:

CONTACT PERSON/AGENT:

Kerry Shapiro, Esq.
Jeffer, Mangels, Butler & Marmaro LLP
Two Embarcadero Center, 5th Floor
San Francisco, CA 94111
Phone: (415) 984-9612
Fax (877) 746-5619
e-mail: kshapiro@jmbm.com

BUSINESS ADDRESS:

Mr. Lloyd Burns
Western Aggregates LLC
P. O. Box 821
Marysville, California 95901
Phone: (530) 754-6525

SPECIFIC PROPERTY DESCRIPTION

The specific property for which a vested rights determination has been requested from the SMGB is depicted in Map 13-3 (attached; map can also be found in Volume III of the Western Aggregates Request For Determination, submitted to the SMGB in October 2008). The subject area incorporates approximately 4,125 acres currently owned by Western Aggregates, LLC, and is situated in a roughly 10,000-acre area within what is known as the Yuba Goldfields, as shown on Map 13-3, and as described with more particularity in the "Legal Description" section of Volume I of the Western Aggregates' Request for Determination. The subject area consists of portions of the following sections:

Sections 1, 2, 11 & 12 in Township 15 North, Range 4 East, M.D.M.,
Sections 4, 5 & 6 in Township 15 North, Range 5 East, M.D.M.,
Sections 25, 26, 27, 32, 33 & 34 in Township 16 North, Range 5 East, M.D.M.,
Section 30 in Township 16 North, Range 6 East, M.D.M.

PUBLIC HEARINGS AND WRITTEN COMMENTS

The SMGB has scheduled a public hearing for the determination of vested rights for August 6, 7 and 8, 2009. The public hearing will commence at 9:00 A. M. each day. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act.

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Representatives for the Claimant, Yuba County and the general public, are invited to make statements at the hearing regarding the vested rights asserted. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony. Any additional information is requested to be delivered to the SMGB no less than 60 calendar days (June 5, 2009) before the hearing and in no case will any responsive materials be submitted less than 45 calendar days (June 22, 2009) prior to the hearing.

The public hearing will be held at:

The Yuba County Government Center
915 8th Street, Suite 109
Marysville, CA 95901

ADMINISTRATIVE RECORD AVAILABILITY

The administrative record received on November 5, 2008, is comprised of three volumes (Volumes I, II and III-A, III-B and III-C), and 20 volumes of historical record containing over 12,000 pages. The administrative record is accessible for review at:

State Mining and Geology Board Office
801 K Street, 20th Floor, Suite 2015
Sacramento, CA 95814
Phone: (916) 322-1082

OR

Yuba County Planning Department
915 8th Street, Suite 123
Marysville, CA 95901
Phone: (530) 749-5470

CONTACT PERSON

Inquiries concerning the substance of this Further Notice of Pending Determination should be directed to:

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